

Serial No. 10/062,790

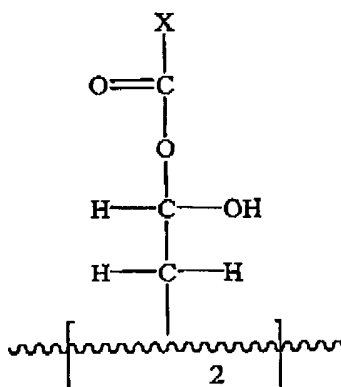
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Remarks:

Claims 7-36 and 45-46 are pending in this application. It is noted with appreciation that the Examiner has found claims 34, 36, and 45-46 to be allowable over the art.

In the last office action of this application, the Examiner maintained the rejection against claims 7-31, 33, 35, and 39-43 as being anticipated by U.S. Patent Application Publication No. 2003/0004283 to Puligadda et al. The Examiner stated that the Deshpande Declaration submitted by the applicant was ineffective to overcome the rejection. The Examiner took the position that the Puligadda et al. reference and the present application claim the same invention. However, the Applicant respectfully disagrees with this assertion. The claims of two different applications do not claim the same invention if embodiments exist that infringe a claim in one application, but not a corresponding claim in the other application. *In re Vogel*, 422 F.2d 438 (CCPA 1970).

The claims of the Puligadda et al. reference and that of the pending application are very different, and there are numerous embodiments that would infringe the Puligadda et al. claims but not the present claims, and vice versa. For example, an anti-reflective composition including a polymer comprising recurring monomers having the formula



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where X is an aromatic or heterocyclic light-absorbing moiety, would infringe claim 7 of the present application. However, this polymer would not have the molar ratios of reacted and unreacted rings as recited by the Puligadda et al. claims, and would not infringe those claims as a result. Thus, identical subject matter is not defined by the claims of both applications.

The Applicant's attorney spoke with the Examiner by phone on June 1, 2004, and this matter was discussed. Upon reconsidering the matter, the Examiner agreed that the same invention ~~was~~ claimed in both applications, and it was agreed that the Applicant would submit this Amendment After Final summarizing the facts and requesting the Examiner's reconsideration. Therefore, it is respectfully requested that the Examiner reconsider the Deshpande Declaration in light of the foregoing. That Declaration shows invention prior to the effective date of the Puligadda et al. reference, and that reference should be removed as prior art.

It is believed that no further issues remain. Thus, the Applicant respectfully submits the pending claims are in condition for allowance. In the event of further questions, the Examiner is urged to call the undersigned.

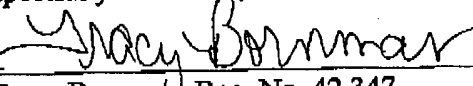
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Any additional fee which might be due in connection with this application should be applied against our Deposit Account No. 19-0522.

Respectfully submitted,

By


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